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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/732,731      | 12/10/2003  | Timothy M. Holub     | 306230              | 6694             |

33042 7590 01/29/2007  
LEYDIG, VOIT & MAYER, LTD.  
(SEATTLE OFFICE)  
TWO PRUDENTIAL PLAZA  
SUITE 4900  
CHICAGO, IL 60601-6731

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| EXAMINER |
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YIP, WINNIE S

|          |              |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3636

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 01/29/2007 | PAPER         |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/732,731

Applicant(s)

HOLUB, TIMOTHY M.

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-29 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-29 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

This office action is in response to applicant's amendment filed on November 8, 2006 for a Request Continued Examination (RCE) of earlier application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### *Claim Rejections - 35 USC § 102*

1. Claims 21-24 and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshimi (US Patent No. 3,424,178).

Yoshimi shows and teaches a shelter comprising : a pole assembly comprising at least one roof hub (1a), at least one horizontal pole (2b) connecting between two hubs (1a, 1d) (see Fig. 5A), a plurality of upright poles each includes a upper pole segment (2a) and a lower pole segment (2k) connected to the upper pole segment angularly by a corner hub (1p) such that the lower pole segment (2k) extends upwardly from the ground surface and being substantially more vertical with respect to the ground than the upper pole segment (2a), each roof hub (1a) having a plurality of tubular members (1) each having an elongated recess (7), the upper pole segments of the upright pole, the lower pole segment (2k), and the horizontal pole (2b) each having one end having a projection (6) being inserted and interlocked with the recess (7) to provide a removably and non-rotatably connection between the pole and the hub respectively, and a canopy supported by the pole assembly.

2. Claims 21-29 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Zou (US Patent No.6,374,843).

Zou shows and teaches a shelter comprising: a pole assembly comprising at least one roof hub, a plurality of upright poles each includes a upper pole segment (2) and a lower pole segment (1) angularly connected to the upper pole segment by a corner hub (5) such that the lower pole segment (1) extends upwardly from the ground surface and being substantially more vertical with respect to the ground than the upper pole segment (2), each of the roof and corner hub having a plurality of tubular members with a oblong cross section and holes, wherein the upper and lower pole segments each having an oblong cross section substantially as same to the cross section of the tubular member of the hub, and the end of the upper and lower pole segments each having a spring detent to being received within aperture formed on the tubular members of the hub respectively such that the upright pole being locked to the tubular member of the hub with a non-rotatable connection.

***Claim Rejections - 35 USC § 103***

3. Claim 21-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US Patent No. 5,732,726) in view of Lin et al. (US Patent No.6,418,949) .

Lee shows and teaches a shelter (10) comprising : a pole assembly comprising at least one hub (20 or 42), at least one horizontal pole (40) for connection between two hubs, a plurality of upright poles (24) each includes a lower pole segment (14 ) extending substantially vertical and an upper pole segment (16) angularly connected to the lower pole segment, the roof and corner hubs each having a plurality of tubular members (50 or 60) with openings (54 or 64) and a locking slot formed on the tubular member therein, the upper pole segments (16) of the upright pole and the horizontal pole (40) each having one end being inserted into the opening (64) and having a spring detent being biased into the slot such that the pole segments being locked to the

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hub and being nonrotatable with respect to the hub. Although Lee does not specifically define how the end of the pole being locked with the tubular member as claimed, Lin et al. teaches two tubular member having oblong cross sections with a flat portion that removably engage each other without rotation therebetween, and one of the tubular member having a spring engaging with a slot of another tubular member to form a non-rotatable interlocking the two tubular members together. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the shelter of Lee having the end of the pole and the tubular members of the hub having oblong cross sections with the ends of the poles having spring locking mechanism being in snapping fit into the slots formed on the tubular members of the hub as taught by Lin et al. for providing a removable attachment but non-rotatable connection between the hub and the poles.

#### ***Response to Arguments***

4. In response to applicant's argument that there is no suggestion to combine the references of Lee and Lin et al. , the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, first applicant recites the pole segments being removably attached to the hub by a "first connection", and the first connection and the pole segment being nonrotatable . Lee teaches the pole segment being removably attached to the hub by a spring detent biasing to engage with the slot formed on the tubular members of the hub,

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after the spring detent engaged and locked with the slot, the upright pole is not rotatable with respect to the hub as claimed. Lee discloses and shows the hub having a slot for locking with the upright pole in a spring-engaging telescopic manner except does not show the spring. Lin is used as a reference to teach two tubular members being removably but nonrotatably connected one to another by spring detent connection in a telescopic manner as known in the art. Lee is also used to teach two tubular members would be formed with oblong cross section to provide further nonrotatable connection as claimed. Both references are discloses a spring-engaging connection between two tubular members. It would have been obvious to one ordinary skill in the art to modify the tubular members of Lee's hub and the upright pole having oblong cross sections as taught by Lin et al. to provide nonrotatable connection before or after two members being interlocked one to another.

Therefore, the rejections stand granted.

#### *Citation*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pui et al. '939 teaches a connector and two members having oblong cross sections for providing nonrotatable connection therebetween as similar to the claimed invention.

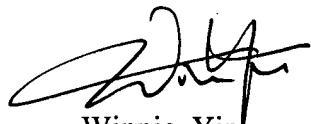
#### *Inquiry Contacts*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Winnie Yip  
Primary Examiner  
Art Unit 3636

wsy  
January 19, 2007